

**MOTION BY SUPERVISORS HILDA L. SOLIS AND
MARK RIDLEY-THOMAS**

NOVEMBER 17, 2015

WAGE ENFORCEMENT PROGRAM

Wage theft is the illegal and immoral practice of stealing earned wages from workers. It occurs when a worker is paid less than the minimum wage, is denied overtime, is paid only in tips, does not receive meal and rest breaks, has illegal paycheck deductions, is coerced to work off the clock, or is misclassified as an independent contractor, intern or volunteer. Wage theft hurts workers, their families, their communities, and responsible businesses.

Earlier this year, the Los Angeles County (County) Board of Supervisors directed County Counsel to report back on the County's legal authority to regulate wage theft and enforce wage theft laws and also directed the Chief Executive Officer (CEO) to prepare recommendations as to the most effective and efficient model by which the County can enforce wage theft regulations. After conducting extensive research and analysis of this complex issue, the CEO recommended that the County establish a Wage Enforcement Program (WEP) that would receive, investigate, and resolve wage theft claims, and would conduct education and outreach to both workers and employers. The proposed immediate fiscal year (FY) 2015-16 implementation of such a program would require an initial allocation of \$408,000 and hiring of five (5) staff positions. Based on expectations of significant future public response and enforcement demand, the County will quickly ramp up the program in (FY) 2016-17 as this projected need is demonstrated in practice.

-MORE-

MOTION

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MOTION BY SUPERVISORS HILDA L. SOLIS AND MARK RIDLEY-THOMAS
NOVEMBER 17, 2015
Page 2

The County's economy is strong and growing. To reach its full potential, the economic playing field must be fair and level. With research indicating that more than 600,000 wage theft violations occur each week in the County, it is clear that the existing enforcement mechanisms are insufficient and that the County must follow the lead of the ten other local governments within California that have created their own wage theft enforcement mechanism.

WE THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

1. Direct the County Counsel, in consultation with the Director of Consumer and Business Affairs (DCBA) and other relevant County departments to report back in 90 days with a proposed ordinance to combat wage theft that, to the greatest extent authorized by law, incorporates all the tools identified in the County Counsel report dated November 9, 2015 including but not limited to:
 - a. Countywide business licensing procedures and requirements that encourage compliance;
 - b. Contracting rules that disqualify from County contracts entities found to have violated wage ordinance provisions;
 - c. Administrative penalties, fines and notices, including but not limited to:
 - i. Posting requirements after there is a decision against an employer to make employees aware of business best practices
 - ii. Employer requirement to provide employees with their name and contact information upon hire, in the event that the employee needs this information to file a complaint or otherwise communicate on a minimum wage or wage theft issue
 - d. Retaliation restrictions and prohibitions, with rights protected including but not limited to:
 - i. The right to file a complaint, inform any person about any party's alleged noncompliance, and the right to inform any person of his or her potential rights or assist him or her in asserting such rights.

MOTION BY SUPERVISORS HILDA L. SOLIS AND MARK RIDLEY-THOMAS
NOVEMBER 17, 2015
Page 3

- ii. The right of employees to speak about their working conditions with the employer, government agency, in an investigation, with a community based organization (CBO), or in a meeting or public hearing.
 - iii. For retaliatory action by the employer, the employee shall be entitled to reinstatement and a trebling of all back wages and penalties.
 - e. Subpoena powers;
 - f. Authority to recover costs from employers to reimburse the County for costs associated with processing wage theft claims that are adjudicated in favor of the employee; and
 - g. Partnerships with enforcement authorities.
2. Direct the CEO to designate the Department of Consumer and Business Affairs (DCBA) as the entity responsible for enforcement of the Minimum Wage Ordinance; immediately begin implementation of the Wage Enforcement Program (WEP) as proposed in Attachment I of the CEO report, dated November 10, 2015; identify funds within the budget to be allocated to support FY 2015-16 program staffing of five (5) positions estimated at \$408,000, including:
- a. 1.0 Chief
 - b. 3.0 Consumer Affairs Representative III
 - c. 1.0 Public Information Officer;
3. Direct the CEO to include the positions listed above and an additional 4.0 Consumer Affairs Representatives III and 2.0 Management Analysts during the FY 2016-17 recommended budget based on the data reflected in the quarterly reports referenced in item #7 below.
4. Direct the CEO and the Sacramento Advocates, in collaboration with DCBA and County Counsel to report back on any potential legislation needed to enhance the tools available to the County and pursue legislation which would authorize DCBA, after legal review from County Counsel, to directly issue administrative subpoenas to investigate allegations of consumer fraud, including wage theft.

MOTION BY SUPERVISORS HILDA L. SOLIS AND MARK RIDLEY-THOMAS

NOVEMBER 17, 2015

Page 4

5. Direct the Treasurer and Tax Collector, County Counsel, CEO, and all relevant departments to report back in writing within 90 days on the feasibility of expanding business licensing to all businesses in the unincorporated areas and to incorporate, to the greatest extent allowed by law, wage theft criteria in business licensing, registration, or permitting processes.
6. Direct the CEO and Director of the DCBA, to report back on a quarterly basis in writing on progress made in hiring WEP staff and establishing WEP operations in an accessible, furnished and convenient location by July 1, 2016.
7. Direct the CEO, County Counsel and Director of the DCBA to report back in writing on a quarterly basis, upon commencement of WEP operations, on caseload trends, workloads, successes and challenges, particularly insofar as this data would warrant additional WEP staffing that the Board should consider funding.
8. Direct the Director of DCBA to report back in writing within 90 days offering a plan to appropriately obtain stakeholder feedback including feedback from incorporated cities in Los Angeles County during at least the first two years of WEP operation. Such a plan might, but need not necessarily, include an advisory taskforce model or stakeholder convenings at the end of each of the first two years of enforcement operations to provide an opportunity for affected parties to provide input on program effectiveness.
9. Direct the CEO and the Director of DCBA to report back in writing in 30 days on recommendations for specific strategies that focus on public education and outreach efforts that ensure to the greatest extent possible culturally competent and linguistically appropriate communication for the full diversity of County communities regarding the new minimum wage law, the issue of wage theft, and information on remedies available to victims of this crime as well as the reasonable budget cost of such public education and outreach efforts.
10. Direct the Director of DCBA to collaborate in appropriate cases with the State Labor Commissioner, under authority of recently signed legislation by the Governor (AB 970, SB 588), and other relevant statutes, regulations and ordinances, to enforce

MOTION BY SUPERVISORS HILDA L. SOLIS AND MARK RIDLEY-THOMAS
NOVEMBER 17, 2015
Page 5

local laws that include, but are not limited to, enforcement of laws regarding minimum wage and overtime hours, imposition of citations and penalties for violations, and liens or levies on employers' properties in order to collect unpaid wages for employees.

11. Direct the Director of DCBA to collaborate with the U.S. Department of Labor's Wage and Hour Division and explore the establishment of a cooperative agreement to combat wage theft through the sharing of information and enhanced enforcement of labor violations.

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November 18, 2015

DEPT NO: 060

COUNTY OF LOS ANGELES

REQUEST FOR APPROPRIATION ADJUSTMENT

DEPARTMENT OF CHIEF EXECUTIVE OFFICER

AUDITOR-CONTROLLER:

THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. PLEASE CONFIRM THE ACCOUNTING ENTRIES AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF EXECUTIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR**FY 2015-16****3 - VOTES****SOURCES****USES****PFU-VARIOUS**

A01-CB-2000-13749-13760

SERVICES & SUPPLIES

DECREASE APPROPRIATION**408,000****CONSUMER AND BUSINESS AFFAIRS**

A01-CA-1000-19100

SALARIES & EMPLOYEE BENEFITS

INCREASE APPROPRIATION**284,000****CONSUMER AND BUSINESS AFFAIRS**

A01-CA-2000-19100

SERVICES & SUPPLIES

INCREASE APPROPRIATION**124,000****SOURCES TOTAL****408,000****USES TOTAL****408,000****JUSTIFICATION**

Reflects the one-time transfer of \$408k from the Provisional Financing Uses budget unit to the Department of Consumer and Business Affairs for the implementation of the Wage Enforcement Program (WEP), as approved by the Board of Supervisors on November 17, 2015.

ADOPTEDBOARD OF SUPERVISORS
COUNTY OF LOS ANGELES**4****NOV 17 2015***Matthew McGloin*

AUTHORIZED SIGNATURE

MATTHEW MCGLOIN, SENIOR MANAGER, CEO

BOARD OF SUPERVISOR'S APPROVAL (AS REQUESTED/REVISED)

Patrick Ogawa

PATRICK OGAWA

ACTING EXECUTIVE OFFICERREFERRED TO THE CHIEF
EXECUTIVE OFFICER FOR---☐ ACTION☒ RECOMMENDATION

AUDITOR-CONTROLLER

BY

DATE

B.A. NO. 049

☒ APPROVED AS REQUESTED☐ APPROVED AS REVISED

CHIEF EXECUTIVE OFFICER

BY

DATE